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BRUCE S. JENKINSIN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION

FILED

U.S. DISTRICT COURT

2008 FEB 13 P 2:08

DISTRICT OF UTAH

UNITED STATES OF AMERICA,

:

Civil Nos. 2:07 CV 624 BSJ

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Petitioner,

:

**ORDER ADOPTING REPORT &
RECOMMENDATION AS
MODIFIED**

vs.

:

JAMES BROWN,

:

Honorable Bruce S. Jenkins
Magistrate Judge Samuel Alba

Respondent.

:

The United States of America filed a petition to enforce its March 19, 2007 IRS Summons ("the Summons") pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). This Court issued an Order to Show Cause on September 10, 2007, which referred this matter to the Magistrate Judge under 28 U.S.C. § 636(b)(3) and directed him to hear the evidence and make a written recommendation to this Court for proper disposition. United States v. Jones, 581 F.2d 816, 817 (10th Cir. 1978) (referring IRS summons enforcement to magistrate judge under 28 U.S.C. § 636(b)(3)). The Order to Show Cause also directed Respondent to file any written response thereto within ten days of being served.

Respondent filed a written response on October 3, 2007. The United States responded on October 5, 2007.

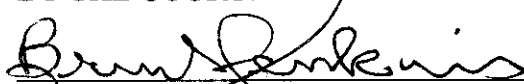
The Magistrate Judge held a hearing on October 9, 2007 at which both Respondent and the United States appeared and presented oral argument. The Magistrate Judge issued a Report and Recommendation on October 11, 2007, recommending that this Court: (1) find that Respondent had failed to show cause as to why he should not be compelled to comply with the Summons; and (2) order Respondent to comply with the Summons within five days after this Court adopts the Report

and Recommendation. The Report and Recommendation informed Mr. Brown that he had ten days within which to file his objections with this Court. Mr. Brown timely filed his written objections with this Court, to which the United States responded. Among Mr. Brown's filings were a motion to strike, motion to dismiss, and a request for admission. This Court also granted leave to Mr. Brown to file additional memoranda in support of his position, to which the United States responded.

This Court heard oral argument on the written submissions on December 13, 2007 and January 25, 2008. After reviewing the Magistrate Judge's Report and Recommendation, the parties' filings, oral arguments, and reviewing the record de novo, I find that Respondent has failed to show cause as to why he should not be compelled to comply with the Summons. Consequently, I ORDER Respondent to provide the documents and testimony required by the Summons on February 1, 2008 at 10:00 a.m. in Room 420 of the United States District Court, 350 South Main Street, Salt Lake City, Utah 84101. I also DENY Respondent's motion to dismiss, motions to quash, and his request for admissions.

DATED this th 29 day of January 2008.

BY THE COURT:



Bruce S. Jenkins, Senior Judge
United States District Court